

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

CLAUDE GRANT, ORALENE DAY,	)	
PRINCESS MARTINDALE,	)	NO. 3 04 0630
FALETHA REID, DARRYL MCKIBBENS,	)	
DARREL GANT, ANTONIO MCKISSACK,	)	JUDGE HAYNES
PAMELA TUCKER and	)	
SANDRA DERRICK,	)	MAGISTRATE JUDGE BROWN
individually and on behalf	)	
of all others similarly situated,	)	CLASS ACTION COMPLAINT
	)	
Plaintiffs,	)	JURY DEMAND
	)	
v.	)	
	)	
METROPOLITAN GOVERNMENT OF	)	
NASHVILLE AND DAVIDSON COUNTY,	)	
TENNESSEE,	)	
	)	
Defendant.	)	

**MOTION TO CONTINUE TRIAL OR, IN THE ALTERNATIVE,  
TO SPECIALLY SCHEDULE EXPERT PROOF**

The Metropolitan Government of Nashville and Davidson County (“Metropolitan Government”) moves the Court for a two-week continuance of the trial of this matter. Alternatively, the Metropolitan Government moves the Court to schedule any expert proof and proof relating to class claims in this case for the latter part of the second week of trial.

The Court recently entered an order granting Plaintiffs’ motion for continuance, which Plaintiff’s counsel made orally at the pretrial conference. Order, Docket Entry No. 129. Specifically, the Court set aside the prior March 18th trial date and reset this case for trial beginning April 15th. However, the date selected by the Court directly conflicts with another trial in which the Metropolitan Government’s expert witness, Paul White, has been retained to testify.

Specifically, Paul White will be in trial on another previously-scheduled matter, proceeding

in Wood County, West Virginia Circuit Court, scheduled from April 8th to April 22nd. Sharon Dye, et al. v. K Mart, Corp., Docket No. 06-C-121. Undersigned counsel has spent significant time since the Court's Order re-setting this case for trial in April ascertaining whether the conflict between the two trials could be resolved. Once Dr. White confirmed that a conflict existed, undersigned counsel contacted counsel in the Dye case to determine exactly when Dr. White would be needed, whether there was any likelihood of a continuance in Dye, and whether there were any other options available to make the Grant trial date workable. Those discussions have revealed that Dr. White will not be available to give testimony in the Grant matter until, at the earliest, the second week of trial. It is possible that Dr. White will not be available until the 22nd.

Accordingly, the Metropolitan Government moves the Court for a two-week continuance of the trial in this matter. In the alternative, the Metropolitan Government requests that the Court specially schedule the taking of expert proof and any proof relating to the class claims in this case for the latter part of the second week of trial.<sup>1</sup>

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
SUE CAIN #9380, DIRECTOR OF LAW

/s/ J. Brooks Fox  
J. Brooks Fox, #16096  
James W.J. Farrar, #22782  
Allison L. Bussell, #23538  
Assistant Metropolitan Attorneys

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<sup>1</sup> It is additionally noteworthy that Attorney Jeff Farrar's (counsel for the Metropolitan Government) first child is due the last week of April. Counsel for the Metropolitan Government is attempting at all costs to move forward with trial in the timeframe chosen by the Court, even if it means proceeding without Mr. Farrar's assistance. However, if the Court is so willing, or has a calendar conflict preventing a two-week continuance of the trial date, a continuance to May will both resolve Dr. White's conflict and allow Mr. Farrar to help try this case in which he has played such a significant role thus far.

108 Metropolitan Courthouse  
P.O. Box 196300  
Nashville, Tennessee 37219  
(615) 862-6341

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been sent electronically to Martin Holmes and Colleen M. Sweeney, Financial Center, 424 Church Street, Suite 1401, Nashville, TN 37219-2392, via the CM/ECF electronic filing system on this the 10th day of March, 2008.

/s/ J. Brooks Fox  
J. Brooks Fox